

### **Remarks**

Claims 1-19 were pending.

Claims 1, 4, 5, 15 and 19 are amended.

Claims 8-11 and 18 are cancelled.

Claim 13 is original.

Claims 2, 3, 6, 7, 12, 14, 16 and 17 are as previously presented.

Claims 20 and 21 are new.

The application now contains claims 1-7, 12-17 and 19-21.

In order to aid prosecution, Applicants have amended the claims to remove material related to the repeating unit of formula II and monomers of formula IV. To this end,

claims 8-11 and 18 are cancelled;

claim 1 is amended to delete formula II and related material

and claim 19 is amended to delete the formulae IVa, IVb, and IVc.

Applicants retain the right to pursue this material in subsequent applications.

Claims 4, 5 and 15 are amended for clarity. Claim 4 is amended by deleting from line 1 the words "any of" and by deleting the letter "s" from the word claims. Claim 5 is amended by inserting the formulae for (Ia) and (Ib), support is found in original claim 1. Claim 15 is amended by deleting the superfluous word "or" following formula (III).

Support for new claims 20 and 21 are found in claims 15, 2 and 3.

No new matter is added.

### **Restriction**

The Examiner has asked for a single invention to be selected from the following groups:

Group I - Claims 1-3, 5, 8, 9, 16 and 18 drawn to homopolymers,

Group II - Claims 4, 6, 7, 10, 11 and 17 drawn to co-polymers,

Group III - Claims 12-14 drawn to an optical device,

Group IV - Claims 15 and 19 drawn to a monomer.

In light of the above amendments, the groups are now

Group I - Claims 1-3, 5 and 16 drawn to homopolymers,

Group II - Claims 4, 6, 7 and 17 drawn to co-polymers,

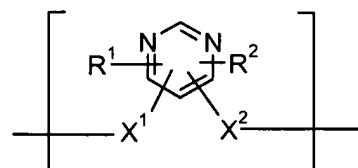
Group III - Claims 12-14 drawn to an optical device,

Group IV - Claims 15 and 19-21 drawn to a monomer.

The Examiner contends that the claims do not contain a single connecting technical species and do not conform to PCT rules regarding a general inventive concept because each group contains different chemical structures requiring different searches.

Applicants respectfully disagree with the Examiner's contention and elect with traverse Group II, claims 4, 6, 7 and 17 drawn to co-polymers.

Applicants respectfully submit that co-polymers are a subset of polymers and that if the presence of certain repeating units within a polymer renders the polymer novel, the presence of those repeating units would also render a copolymer novel. Applicants note that in light of the amendments above, the polymers of parent claim 1 and dependent claim 4, the broadest claims in Group I and



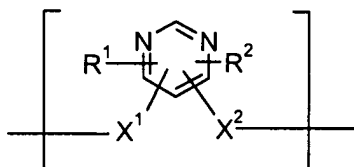
Group II contain as a unifying technical feature the pyrimidine unit:

Applicants therefore respectfully ask that Group II and Group I be rejoined either now or upon finding the polymers of Group II allowable.

Applicants further note that all the claimed polymers, co-polymers and devices wherein the claimed polymers and co-polymers are employed, contain said feature. Under PCT rules, a single unified invention can consist of a new substance, a process for making the substance and a use of the substance. Applicants respectfully submit that if the polymers of the instant invention are found to be allowable, then the devices of claims 12-14 would be part of a single invention as being an application of the new substance.

Applicants therefore kindly ask that the Examiner rejoin the device claims of Group III with the polymer claims of Groups I and II either now or upon finding the polymer claims allowable. Should the Examiner disagree with Applicants concerning the rejoinder of Group I with Group II, Applicants then kindly ask that the Examiner rejoin the device claims of Group III with the claims of Group II at least in so far as the devices of Group III contain the polymers of the elected invention.

As the PCT rules also allow for the preparation of a material to be part of a single unified invention, Applicants also respectfully submit that it would be proper to rejoin claims 15 and 19-21 with the polymer claims as polymerization of the monomers provides the polymers of the invention and the



monomers contain the same pyrimidine unit: . Reinforcing the relationship between the monomers and the polymers, new claims 20 and 21 include the limitations of claims 2 and 3 as they relate to the monomers.

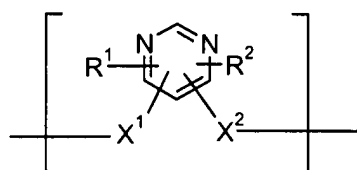
In issuing the restriction, the Examiner states that the different inventions, and to some extent the individual species, will require a separate search. Applicants have amended the claims so that all claims relate in an important manner to the pyrimidine unit discussed above.

Applicants respectfully point to Annex B of the MPEP relating to unity of invention, for example, section (f) "Markush Practice", in particular paragraph (iii) ' the words "recognized class of chemical compounds" mean that there is an expectation from a knowledge in the art that members of a class will behave in the same way within the context of the claimed invention", and the same section paragraph (iv), "The fact that the alternatives of a Markush grouping can be differently classified shall not, taken alone, be considered to be justification for finding a lack of unity of invention."

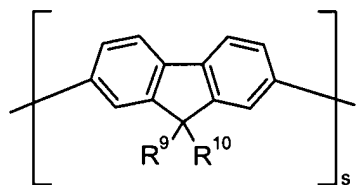
Applicants respectfully submit that the pyrimidine unit is a unifying technical feature common to the polymers of Group I, the polymers of Group II, the devices of Group III and the monomers of Group IV, and that taken together, the claims constitute a single invention as a new substance, use of the substance and preparation of the substance. Applicants therefore kindly ask that all claims be rejoined either now or upon finding the copolymers of claims 4, 6, 7 and 17 of Group II allowable.

Should the examiner not rejoin all claims then Applicants kindly ask that the claims of Groups 1 and III be rejoined for the reasons stated above. Should the Examiner not rejoin Group I, then Applicants kindly ask that the claims of Group III be rejoined to the extent that they incorporate the polymers of elected Group II.

The Examiner has also asked for a single species to be elected with which to begin examination. Applicants select the polymer of Example I on page 49 of the specification. This is a co-polymer comprising the monomer unit of formula I



(I) wherein R1 is phenyl, R2 is H and X1 and X2 are phenyl and the monomer unit

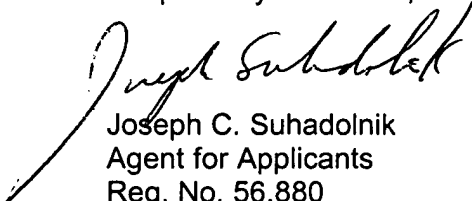


of claim 4 wherein s is 1 and R9 and R10 are hexyl.

Consideration of the claims on their merits is respectfully awaited. In the event that minor amendments will further prosecution, Applicants request that the examiner contact the undersigned representative.

Ciba Specialty Chemicals Corporation  
Patent Department  
540 White Plains Road  
P.O. Box 2005  
Tarrytown, NY 10591-9005  
Tel. (914) 785-2973  
Fax (914) 785-7102

Respectfully submitted,

  
Joseph C. Suhadolnik  
Agent for Applicants  
Reg. No. 56,880  
filed under 37 CFR 1.34(a)